Remarks

Applicants thank the Examiner for very thorough examination of the present application.

Claims 23-26 have been canceled. Claims 27-48 have been added. Claims 27 and 40 are independent claims.

Applicants respectfully submit that the present amendment introduces no new matter. Support for the pending claims can be found throughout the originally filed application and drawings. Page 1, line 5; page 3, lines 15 and 20; page 5, lines 21-23; page 6, lines 1 and 26; and page 7, lines 13-18 are particularly relevant in supporting the language of the presently pending claims.

Reconsideration of this application, as amended, is respectfully requested.

Rejection under 35 USC 102(e)

Claims 23-26 stand rejected under 35 USC 102(e) as being anticipated by Kara. This rejection is respectfully traversed.

Claims 23-26 have been canceled thereby rendering this rejection moot. Moreover, as regarding pending claim 27-48 the present invention is now directed to methods of handling digital data files in conjunction with a digital data player. Particularly, claims 39 and 48 recite methods of handling digital audio data files in conjunction with an MP3 player.

Kara deals with certifying the accuracy of the transmission of an electronic document. While Kara was arguable relevant to canceled claims 23-26, Kara clearly fails to show or suggest the combinations of method steps recited in the present pending claims.

Accordingly, reconsideration and withdrawal of this rejection are respectfully requested.

Stefik - EP 0 715 247 A1

Stefik, as applied by the Examiner in previous Office Actions, appears to be the most relevant art of record. Therefore, Applicants would like to offer some remarks to point out some of the distinctions of the pending claims over Stefik.

Stefik shows a rather complex system for managing and controlling the distribution of digital works (e.g. software, movies, electronic books, music) between what Stefik calls "repositories." The system requires the intervention of a generic or special ticket agent (See page 2, lines 46-51). The generic or special ticket agent must "punch" (e.g. process) an electronic ticket attached to the digital work before any transfer of a digital work is permitted, or to log that a transfer has occurred, if permitted.

As mentioned above, digital works are transferred between repositories. Prior to any transfer between repositories, steps are taken

to insure that the respective repositories are trustworthy (See page 3, lines 57-58). Stefik appears to require many, complex verifications. For example, on page 7, lines 35-39, Stefik states:

> ***As a prerequisite to operation***, a repository will ***require*** possession of an identification certificate. Identification certificates are encrypted to prevent forgery and are issued by a Master repository. A master repository plays the role of an authorization agent to enable repositories to receive digital works. Identification certificates ***must be*** updated on a periodic basis. Identification certificates are described in greater detail below with respect to the registration transaction. (Emphasis Added)

Again on page 8, lines 13-19 Stefik states:

> The core repository services 1302 comprise a set of functions ***required by each and every repository***. The core repository services 1302 include the session initiation transactions which are defined in greater detail below. This set of services also includes a generic ticket agent which is used to "punch" a digital ticket and a generic authorization server for processing authorization specifications. Digital tickets and authorizations are specific mechanisms for controlling the distribution and use of digital works and are described in more detail below. Note that coupled

to the core repository services are a plurality of identifications certificates 1306. The *__identification certificates 1306 are required to enable the use of the repository__*. (Emphasis Added)

Based upon the Stefik disclosure, it appears clear that one of ordinary skill in the art would understand the Stefik system to require that any repository, downloading, copying or uploading a digital work, must have an identification certificate. Such an ID certificate is very important to the enablement of the Stefik system, in that Stefik states that it is "required by each and every repository," and "must be updated on a periodic basis." If fact, Stefik states that without the ID Certificate, the system is not enabled.

Therefore, Stefik would not show or teach one of ordinary skill in the art how to transfer digital data files between repositories having no ID code or ID certificate. Further, one of ordinary skill in the art would never modify the Stefik system to remove the ID certificate, as Stefik teaches directly against such a modification, by stating that such steps are required for enablement.

The present invention, as recited in the pending claims, is directed to much simpler methods for transferring a digital data file relative to a digital data player's memory. No generic ticket agent and generic authorization server is required. Also, no ID certificate is involved with a digital data player or the transfer of files to or from a digital data player.

A digital data player, such as an MP3 player (claims 39 and 48), has no unique ID code. Much less any ID code, which is assigned by a master repository. A digital data player, such as an MP3 player (claims 39 and 48), is simply an anonymous portable device, purchased at an electronics store, and not registered in any master repository by any unique ID to the purchaser. There appears to be no established system currently in place to have a unique ID assigned to a digital data player, and as such it is submitted that the system of Stefik is not capable of being used in a method, as recited in Applicants' claims.

Further, it is submitted that it would be unobvious to modify the Stefik system so that the Stefik system worked with a digital data player, such as an MP3 player (claims 39 and 48). Such a modification would require the removal of the requirement that the repository have an ID certificate, and Stefik teaches away from this modification.

Moreover, the independent claims of the present invention recite an uploading process from the memory of the digital data player to a personal computer. Again, there would conventionally be no check of a repository ID and no generic authorization server involved. By the present invention, the software's analysis of the code segment attached to the digital data file would control the upload, without regard to any unique ID of the PC receiving the upload (i.e. the receiving repository). If the code segment allows an upload, the upload will proceed, even though

the PC's ID is unknown and/or not registered in a master repository's list.

Re claim 40, there is no mention in Stefik of any vending machine, much less a vending machine for downloading a digital data file to a memory of a digital data player.

Re claim 33, Stefik makes no mention of a removable memory, much less a mention of a removable memory of a digital data player.

Re claims 28-30 and 41-42, Stefik makes no mention that the software would be resident on a digital data player and then uploaded to a personal computer. This is another advantage of the present invention over Stefik. By the present invention, it would be possible to sell digital data players, which have the software preloaded to control uploading of music to a PC. (Claims 28-29 and 41).

Alternatively, it could be a prerequisite to downloading a digital data file that the digital data player download the control software. (Claims 30 and 42). The digital data player would only be able to upload a digital data file to a PC after the software is uploaded to the PC. Therefore, the enablement of the software to control / prevent uploading of a digital data file on the PC could be a prerequisite to any uploading from the digital data player. Stefik makes no mention of such an arrangement. In Stefik, there is a primary assumption that the repository is a secure and trustworthy source (e.g. due to its registration

ID), and that the trustworthy repository would have the control software preinstalled.

Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone Scott L. Lowe, Registration No. 41,458, at (703) 205-8000, in the Washington, D.C. area.
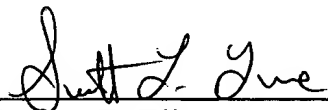
Prompt and favorable consideration of this Amendment is respectfully requested.

Applicant(s) respectfully petitions under the provisions of 37 C.F.R. § 1.136(a) and 1.17 for a one-month extension of time in which to respond to the Examiner's Office Action. The Extension of Time Fee in the amount of $110.00 is attached hereto.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

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